

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

STEVEN W. KRAFCHICK,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 07-284-GMS
	:	
ELIZABETH BURRIS , Acting Warden,	:	
and JOSEPH R. BIDEN, III , Attorney	:	
General of the State of Delaware,	:	
	:	
Respondents.	:	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Steven W. Krafchick, has applied for federal habeas relief, filing a habeas petition challenging his 2002 conviction by guilty plea and sentence for second degree murder and possession of a deadly weapon during the commission of a felony. D.I. 16. Krafchick has raised four claims in his petition (D.I. 16) and six claims in his accompanying memorandum (D.I. 17). By the terms of the Court's order dated October 25, 2007, the answer is due to be filed on November 30, 2007.

2. Counsel has been, and continues to be, diligently working on numerous cases before this Court, the Third Circuit, and the state courts. Unfortunately, counsel was ill this week and as a result was out of the office for two days. Counsel has substantially completed the answer, however, in light of the situation, a few days of additional time is needed to complete the answer and have it reviewed in the ordinary course of business.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' second request for an extension of time in this case.

5. Respondents submit that an extension of time to and including December 7, 2007, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759

DATE: November 30, 2007

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is in the custody of the Delaware Department of Correction and appearing *pro se*, to the subject matter of this motion.

/s/ Elizabeth R. McFarlan
Deputy Attorney General

Counsel for Respondents

Date: November 30, 2007

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General of the State of Delaware,	:	
	:	
Respondents.	:	

ORDER

This ____ day of _____, 2007,

WHEREAS, respondents having requested an extension of time in which to file an answer,
and

WHEREAS, it appearing to the Court that the requested extension is timely made and good
cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before December 7,
2007.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2007, I electronically filed a motion for extension of time with the Clerk of Court using CM/ECF. I also hereby certify that on November 30, 2007, I have mailed by United States Postal Service, the same document to the following non-registered participant:

Steven w. Krafchick
SBI No. 178856
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
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